

HOUSE No. 3635

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen L. DiNatale

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to the Motor Vehicle Board of Appeals.

PETITION OF:

NAME:

Stephen L. DiNatale

DISTRICT/ADDRESS:

3rd Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE MOTOR VEHICLE BOARD OF APPEALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 8A of Chapter 26 of the General Laws, as appearing in the 2004 official edition, is hereby amended by striking out Section 8A and inserting in place thereof, the following:-

Section 8A. There shall be within the Registry of Motor Vehicles an independent board of motor vehicle appeals consisting of a chairman, appointed by the registrar of motor vehicles, a member of the board appointed by the commissioner of insurance and a member of the board, appointed by the attorney general. The chairman and the members of the board shall serve for a term of seven years, with incumbents serving three years upon enactment, subject to removal by the appointing authority only for nonfeasance or malfeasance in office. Should the position of chairman or member of the board become vacant prior to the expiration of his or her term, the appointing authority shall appoint a successor for a new seven year term.

The chairman may appoint and remove an executive director, officers to hear surcharge appeals, and such clerical and other assistants as its work may require.

All expenditures incurred under this section shall be paid through a trust fund consisting of the filing fees collected by the board and supplemented by an administrative assessment. The clerical and other assistants shall perform such duties as the chairman or executive director may direct. Any member

16 of the board shall have power to summon and compel the attendance and testimony of witnesses and the
17 production of books, records and documents and may administer oaths. Sections 9 and 11 of chapter 233
18 as appearing in the 2002 official edition, shall apply to the board and witnesses summoned before it. The
19 fees of witnesses before the board for attendance and travel shall be the same as for witnesses before a
20 court in civil cases and need not be paid nor tendered to them prior to their attendance, and shall be paid
21 by the Commonwealth upon the certification of the board or a member thereof filed with the comptroller.

22 The board may hold hearings at any place within the Commonwealth and the members and
23 executive director thereof shall be allowed their necessary traveling and other expenses in holding
24 hearings beyond its principle offices. The board, in accordance with the provisions of Massachusetts
25 General Laws, chapter 30A, may promulgate and amend reasonable rules and regulations to expedite and
26 regulate hearings and the procedure before it.

27 SECTION 2. The Commissioner of Insurance shall require each insurance company issuing
28 private passenger motor vehicle liability policies in the Commonwealth to collect an assessment to be
29 utilized by the board for the purposes set forth under the provisions of chapter 26, section 8A and chapter
30 175, sections 113B and 113P and chapter 90, section 28. The assessment shall be such amounts as shall
31 be determined and certified annually by the chairman and approved by the statistical agent designated
32 pursuant to chapter 175 section 113H as sufficient to fund the responsibilities of the board subject to
33 appeal to the Commissioner of Insurance. The secretary of administration and finance shall expend from
34 the general funds amounts for indirect and fringe benefit costs, including, but not limited to, group life
35 and health insurance, retirement benefits, paid vacations and holidays, and sick leave, attributable to
36 personnel costs and personal administration of the board's office related to the purposes for which this
37 assessment is collected. This shall be assessed as determined by the commissioner against each private
38 passenger motor vehicle liability issued in the Commonwealth.

The commissioner shall annually estimate the total number of earned car years of motor vehicle policies providing private passenger motor vehicle liability coverage in the Commonwealth, and the amount to be assessed equally against such earned car year of exposure sufficient to produce one million five hundred thousand dollars in revenue to the Commonwealth, plus the total amount of funds estimated by the secretary of administration and finance to be expended from the general fund for indirect and fringe benefit costs including but not limited to group life and health insurance, retirement benefits, paid vacations and holidays, and sick leave, attributable to personnel costs of the board's office related to the purposes for which the assessment is collected. Each insurer issuing private passenger motor vehicle liability policies shall collect the amount determined by the commissioner to be assessed from each person to whom a private passenger motor vehicle liability policy is issued. In any year in which such rates are fixed and established pursuant to General Laws chapter 26 section 8A and chapter 175, section 113B, the commissioner shall make a specific provision in the expense allowance in private passenger motor vehicle liability rates which shall be adequate to allow this assessment to be recovered in such rates by each insurer. In any year in which such rates are determined by any other method, this assessment shall be approved by the commissioner in the expense allowance for private passenger motor vehicle liability rates. Such assessments shall not be reported or included as premiums for any tax or regulatory purposes. If the Board fails to expend in any fiscal year the total amount for the purposes set forth under the provisions of General Laws chapter 26 section 8A and chapter 175 section 113B, the amount unexpended in such fiscal year shall be reduced by such unexpended amount. The commissioner is authorized to estimate the amount to be collected by each insurer issuing private passenger motor vehicle liability policies based on the number of earned car years of private passenger motor vehicle liability exposure in the prior year and require each such insurer to remit such estimated amount to the Commonwealth. The commissioner shall subsequently notify each of the actual amount of assessment required to be forwarded to the Commonwealth based on each insurer's total earned ear years of private passenger motor vehicle liability exposures. The commissioner shall make appropriate adjustments for any variation between the estimated amount assessed and the actual amount collected by each insurer.